IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition Nos.27627 of 1996 & 6648 of 2001

Dated: 03-10-2007

W.P.No.27627 of 1996:

Between:
Andhra Pradesh State Financial Corporation,
rep. by its Branch Manager,
having its Branch Office at 6-2-107,
Jammibanda Road,
Behind Z.P. Quarters,
Khammam – 507 002.

... Petitioner

and

1. State of Andhra Pradesh, rep. by Secretary,
   Forests, Forest Department, Secretariat Buildings,
   Hyderabad and 2 others.

... Respondents

W.P.No.6648 of 2001:

Between:
N. Srinivasa Rao, s/o Mysayya,
r/o 3-8-181,
Zaheerpura,
Khammam.

... Petitioner

and

1. State of Andhra Pradesh, rep. by Secretary,
   Forests, Forest Department,
   Secretariat Buildings,

Hyderabad and 2 others.

... Respondents

COMMON ORDER:

As the point involved in both the writ petitions is one and the same, these writ petitions are heard and disposed of by this common order.

2. The Andhra Pradesh State Financial Corporation, Khammam (for short, 'APSFC'), rep. by its Branch Manager filed W.P.No.27627 of 1996 seeking *mandamus* to direct second respondent – Divisional Forest Officer to handover the vehicle bearing No. AP 20T-478, which was hypothecated to it by the owner of the vehicle – one N. Srinivasa Rao,
the third respondent to it, so as to enable them to initiate action for recovery of arrears payable to it under the provisions of the State Financial Corporation Act. Whereas, the said owner filed W.P.No.6648 of 2001 seeking a *mandamus* to declare the action of the second respondent in not releasing the said vehicle, which was seized on 26-05-1993,
as illegal and arbitrary and consequently direct the second respondent to release the vehicle.

3. Brief facts are that on 25-05-1993 the vehicle in question while transporting teakwood was intercepted and the teakwood along with the vehicle was seized on the ground that the said transfer of teakwood is without proper documentation. Thereafter, the second respondent after holding an enquiry passed an order in the form of show-cause notice on 09-02-1994 calling upon the owner of the vehicle to show-cause as to why teakwood together with the Van and Motor Cycle should not be confiscated to the Government as per law.

4. Questioning the said order, in my considered view a right of

appeal is provided for under the Statute but the owner of the vehicle without exhausting the said remedy of appeal, approached this Court and filed the writ petition. No doubt, the APSFC is not a party before the second respondent – Divisional Forest Officer, but it is not within the knowledge of APSFC that an order of confiscation was made. If really APSFC has no knowledge about the order of confiscation made by the second respondent, it would not have filed the writ petition questioning the order passed by the Divisional Forest Officer. Having knowledge about the order of confiscation passed by the Divisional Forest Officer, the APSFC i.e. the petitioner in W.P.No.27627 of 1996 should have approached the District Judge and file an appeal, as it has also not exhausted the said remedy of appeal. On this ground alone, this Court is of the view that both the writ petitions are liable to be dismissed.

5. Accordingly, both the writ petitions are dismissed. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.03-10-2007
GLV